

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TORAINÉ LOWE & ANDRÉ DE FREITAS,

Plaintiff,

**STIPULATION AND ORDER
OF SETTLEMENT AND
DISCONTINUANCE**

-against-

09 Civ. 0026 (BMC)(JO)

THE CITY OF NEW YORK, POLICE OFFICER SCOTT
GIACONA, POLICE OFFICER JAMES MAHONEY,
SERGEANT JOHN VANORDEN,

Defendants.

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WHEREAS, plaintiff commenced this action by filing a complaint on or about January 6, 2009, alleging that certain of his federal and state rights were violated; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

7. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

8. Defendant City of New York hereby agrees to pay plaintiff ANDRÉ DE FREITAS, the sum of TWENTY THOUSAND DOLLARS (\$20,000.00) in full satisfaction of all claims made against the defendants, including claims for costs, expenses, and attorney fees. In consideration for the payment of this sum, plaintiff agrees to the dismissal of all the claims

against the named defendants, CITY OF NEW YORK, SCOTT GIACONA, JAMES MAHONEY, and JOHN VANORDEN, with prejudice, and to release all of the defendants, and any present or former employees or agents of the City of New York, or any agency thereof, including, but not limited to, the New York City Police Department, from any and all liability, claims, or rights of action under state or federal law arising from and contained in the complaint in this action, including claims for costs, expenses and attorney fees.

9. Plaintiff shall execute and deliver to the defendants' attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph "2" above and an Plaintiff's Affidavit of Status of Liens.

10. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.


11. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or the New York City Police Department.

12. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
_____, 2009

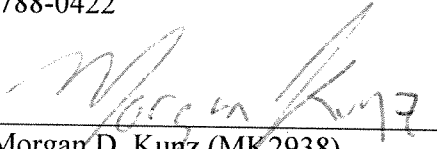
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By:


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By:


Morgan D. Kunz (MK2938)
Assistant Corporation Counsel

SO ORDERED:

BRIAN M. COGAN, U.S.D.J.